

## Commodity Credit Corporation, USDA

## § 1436.8

(2) For sugar-related loans, the loan amount may include costs associated with the purchase, installation, building, improving, remodeling or renovating an eligible storage or handling facility. Eligible facilities include the following:

(i) New conventional-type bins or silos designed for and used to store raw or refined sugar, having a useful life of at least 15 years;

(ii) New flat-type storage structures including a permanent concrete floor, designed for and used to store raw or refined sugar, having a useful life of at least 15 years;

(iii) New storage structures designed for and used to store in-process sugar, having a useful life of at least 15 years.

(iv) Permanently affixed sugar handling equipment determined by the CCC to be needed and essential to the proper functioning of the sugar storage system;

(v) Safety equipment CCC requires such as lighting, and inside and outside ladders;

(vi) Equipment to improve, maintain, or monitor the quality of stored sugar, such as moisture testers, and heat detectors;

(vii) Electrical equipment, including labor and materials for installation, such as lighting, motors, and wiring integral to the proper operation of the sugar storage and handling equipment; and

(viii) Concrete foundations, aprons, pits, and pads (including site preparation, labor and materials) essential to the proper operation of the sugar storage and handling equipment.

(3) For sugar-related loans, storage and handling equipment that is not eligible for loans, includes:

(i) Portable handling equipment and portable augers;

(ii) Structures of a temporary nature that require the weight or bulk of the stored commodity to maintain its shape (such as fences or bags);

(iii) Used or pre-owned structures or handling equipment;

(iv) Structures that are not suitable for storing raw or refined sugar;

(v) Weigh scales.

(4) For sugar-related loans, loans may be approved for financing additions to or modifications of an existing

storage facility with an expected useful life of at least 15 years if CCC determines there is a need for the capacity of the structure.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54938, Aug. 26, 2002]

### § 1436.7 Loan term.

The maximum term of the loan shall be 7 years from the date a promissory note and security agreement are executed, except in the case of a sugar-related loan in which case CCC, at its discretion, may authorize a loan of 15 years. The minimum term of a sugar-related loan is 7 years. No extensions of the loan term will be granted. The loan balance and all related costs are due 7 years from the date of the execution of the promissory note and security agreement, except in the case of a sugar-related loan, in which case such balance and costs are due 15 years from the date of the promissory note and security agreement are executed.

[67 FR 54939, Aug. 26, 2002]

### § 1436.8 Security for loan.

(a) Except as agreed to by CCC, all loans shall be secured by a promissory note and security agreement covering the farm storage facility. The promissory note and security agreement shall grant CCC a security interest in the collateral and shall be perfected in the manner specified in the laws of the state where the collateral is located. CCC's security interest in the collateral shall constitute the sole security interest in such collateral except for prior liens on the underlying realty that by operation of law attach to the collateral if it is or will become a fixture. If any such prior lien on the realty will attach to the collateral, a severance agreement must be obtained in writing from each holder of such a lien, including all government or USDA agencies. No additional liens or encumbrances may be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

(b) For loan amounts exceeding \$50,000, or where the aggregate outstanding loan balance will exceed \$50,000 or for loans where the approving

committee determines as a result of financial analysis that additional security is required, a lien on the real estate parcel on which the farm storage facility is located will be required in the form of a real estate mortgage, deed of trust, or other security instrument approved by the United States Department of Agriculture's Office of General Counsel. CCC's interest in the real estate shall be superior to all other liens and is the first lien that secures the amount of the loan. A loan will be considered to be adequately secured when the real estate security for the loan is at least equal to the loan amount. If the real estate is covered by a prior lien, a lien waiver may be obtained by means of a subordination agreement approved for use in the State by USDA's Office of General Counsel. CCC will not require such an agreement from any agency of the Department of Agriculture. Loans may be secured by a junior lien on real estate when the loan is adequately secured and a severance agreement is obtained from prior lien holders.

(c) Title insurance or a title opinion is required for loans secured by real estate.

(d) Real estate liens may cover land separate from the collateral if a lien on the underlying real estate is not feasible and if:

(1) The borrower owns the separate acreage; and

(2) the acreage has sufficient value based on the fair market value of the acreage at the time of the application as determined by the county committee, to insure repayment of the loan.

(e) Notwithstanding the preceding subsections of this section, a borrower, in lieu of such liens as are otherwise required by those subsections, may provide a letter of credit, bond, or other form of security, as approved by CCC.

(f) If an existing structure is remodeled and an addition becomes an attached, integral part of the existing storage structure, CCC's security interest shall include the existing storage structure.

(g) The cost of loan closings by attorneys, title opinions, title insurance, title searches, filing and recording all

real estate liens, fixture filings and later subordinations will be paid by the borrower. CCC shall pay such costs relating to credit reports, collateral lien searches, and filing and recording financing statements for the collateral.

(h) For sugar-related facility loans, in addition to the above requirements, additional security, including real estate, chattels, crops in storage, and other assets owned by the applicant, is required if necessary to adequately secure the loan. A sugar-related loan will be considered to be adequately secured when the CCC determined value of security for the loan is at least equal to 125 percent of the loan amount.

(i) For sugar-related facility loans, paragraph (g) is not applicable. The borrower shall pay all loan making fees and closing costs. This includes, but is not limited to, attorney fees for loan closings, environmental assessments and studies, chattel and real estate appraisals, title opinions, title insurance, title searches, filing and recording all real estate liens, fixture filings, subordinations, credit reports, collateral lien searches, and filing and recording financing statements for the collateral.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54939, Aug. 26, 2002]

**§ 1436.9 Loan amount and loan application approvals.**

(a) The cost on which the loan shall be based is the net cost of the eligible facility, accessories, and services to the applicant after discounts and rebates, not to exceed a maximum per-bushel cost established by the FSA State committee.

(b) The net cost for storage facilities and handling equipment may include the following: all real estate lien related fees paid by the borrower, including attorney fees, except for filing fees, environmental and historic review fees including archaeological study fees, the facility purchase price, sales tax, shipping, delivery charges, site preparation costs, installation cost, material and labor for concrete pads and foundations, material and labor for electrical wiring, electrical motors, off-farm paid labor, on farm site preparation and construction equipment costs not to exceed commercial rates approved by the county committee, and new on-